

**Tooele City Council  
Business Meeting Minutes**

Date: Wednesday, November 05, 2008  
Time: 7:00 p.m.  
Place: Tooele City Hall Council Chambers  
90 North Main Street, Tooele, Utah

**City Council Members Present:**

Steve Pruden, Chair  
John Hansen  
Scott Wardle  
Dave McCall

**City Council Member Excused:**

Mike Johnson

**City Employees Present:**

Mayor Patrick Dunlavy  
Glenn Caldwell, Finance Director  
Sharon Dawson, City Recorder  
Lisa Carpenter, Deputy Recorder/City Council Liaison  
Rachelle Custer, City Planner  
Paul Hansen, City Engineer  
Cary Campbell, Public Works Director  
Roger Baker, City Attorney  
Chief Ron Kirby, Chief of Police  
Doug Bayly, Assistant City Attorney  
Randy Sant, RDA Consultant  
Milo Berry, Communities that Care

**Others Present:**

Debbie Winn, Chamber of Commerce  
Shawn Milne, Planning Commission Chair

Minutes prepared by Elisa Jenkins

The meeting was called to order by Chairman Pruden at 7:00 p.m. Chairman Pruden excused Councilman Johnson from the meeting.

Chairman Pruden informed the public that there will be a Veterans Day Ceremony at the Dow Jones Building on November 11, 2008 at 11:00 a.m. for anyone who would like to attend.

**1. Pledge of Allegiance**

The Pledge of Allegiance was led by Milo Berry.

**2. Mayor's Community Recognition Awards**

Presented by Mayor Dunlavy, Chairman Pruden and Chief Kirby

Mayor Dunlavy stated that the administration and the Council enjoy giving these awards to these special young people. He feels that recognizing the youth in the Community is very important. He recognized the families that helped these students get to this point in their lives and thanked them for what they do. Mayor Dunlavy explained that these awards are different than the normal recognition awards, they are about the individuals and how they affect their families, neighborhoods, and classmates. He thanked all those who came to support these young people.

Chairman Pruden explained that the students will be receiving a bag of goodies. The bag contains a gift certificate from Iceberg, a day planner from the Chamber of Commerce, a Tooele City lapel pin, a wristband, a certificate from the Mayor, and some candy.

Chairman Pruden presented the awards to the following students:

Tritton Adams, Tooele Junior High School  
Logan Lane, Tooele Junior High School  
Amber Hesleph, Clarke Johnson Junior High  
Gage Stewart, Clarke Johnson Junior High  
Shawna Leonelli, Tooele High School  
Jesse Condie, Tooele High School  
Gavin Andrus, Tooele High School  
David Giles, Tooele High School  
Mason Halligan, Tooele High School

Mayor Dunlavy congratulated the recipients of this award. He also said that the Communities that Care is a wonderful program that helps students deal with challenges they deal with on a regular basis. This program is the best program in the country, it has been nationally recognized. He thanked Mr. Berry and his staff for the wonderful job that they do. The Communities the Care also has a program for parents called "Guiding Good Choices. He invited anyone who would like to attend the classes to contact Mr. Berry. He thanked the families for coming and supporting these students.

**3. Open Forum for Public Comment**

Chairman Pruden invited anyone who would like to address the Council to come forward. No one came forward. Chairman Pruden closed the open forum at 7:27 p.m.

**4. PUBLIC HEARING for the Community Development Block Grant (CDBG)**

Presented by Randy Sant

Mr. Sant explained that the state has a Community Development Block Grant program and each year there is money available for the program. The purpose for the first public hearing is to tell the Council what is available and entertain any specific projects. There will be a second public hearing after the projects are presented and one is selected. They will come back for a public hearing for that specific project. Mr. Sant stated that there is approximately \$300,000 of Block Grant Money available however; about \$150,000 will go to a carry over project. The purpose of the Block Grant is to benefit primary low mod individuals. It can be used for certain economic development projects and it can be used for emergency purposes. Valley Mental Health has contacted him about sponsoring a Block Grant on their behalf. Valley Mental Health is building a new Reflections Building and has asked that the Council consider a Block Grant in the amount of \$100,000 that would go to help purchase some equipment for the building. That is the only project that they have received from the Community to consider. The purpose of the hearing is to see if there is anyone else who would like to discuss any projects.

Chairman Pruden invited anyone who would like to discuss this issue to come forward.

Doug Thomas, 100 W 1000 W, Tooele, addressed the Council. Mr. Thomas is with Valley Mental Health. He thanked Mr. Sant for presenting their project to the Council. Mr. Thomas explained that they are building a new building that will be approximately 9,300 sq ft. and the majority of the building will be for the new Reflection house. The Reflection house serves low income individuals and the disabled which are the most venerable individuals in the Community. He would appreciate the Councils consideration for their request.

Chairman Pruden asked Mr. Thomas where the location of the new building is.

Mr. Thomas said the address is 565 W 900 S. It is right next to the Search and Rescue building.

**Councilman Wardle moved to close the public hearing.** Councilman Hansen seconded the motion. All members present voted “Aye”. The public hearing closed at 7:31 p.m.

5. **PUBLIC HEARING & MOTION on Ordinance 2008-11 An Ordinance of the Tooele City Council Amending Titles 6 and 7 , Tooele City Code, Animal Control.**

Presented by Doug Bayly

Mr. Bayly explained that this ordinance deals with animal control matters. Last year there was some discussion from the public on the number of dogs and cats that a resident can have. As the ordinance is presently written residents can only have two dogs or two cats, or a combination of one of each. After some discussion with the public and the

police department it has been recommended by the staff that the total number of animals be increased from two to four. It could be any combination of dogs or cats. As part of that initiative it required changes to the animal control ordinance, Chapter 6, and 7. The City Attorney's office concluded that along with suggesting changes to the number of dogs and cats there were some refinements that needed to be made to the present ordinance. These refinements helped with enforcement and took out some ambiguity in the language. Mr. Bayly stated that this ordinance was presented to the Council in a work meeting a few months ago. He will be happy to answer any questions.

Chairman Pruden explained that the ordinance contains a list of animals that are appropriate to have within the City limits. It also contains a list of animals that would not be in the best interest of the neighborhood for safety reasons.

Mr. Bayly said that Chairman Pruden was referring to the changes that were made in Chapter 7. Mr. Bayly said in reviewing Chapter 7 they were specifically looking at 7-14-9, the keeping of animals and household pets. The ordinance refers to farm animals and there was not a definition of farm animals in the ordinance. They added a definition to what farm animals are. They also addressed the issue of farm type pets. There was some ambiguity in the language that might be interpreted to say someone could have 6 rabbits, 6 ducks and 6 chickens. The intent is to have a total of six animals. That language was changed. There was one substantive change. Prior to this change the code allowed high density residential areas to have rabbits, ducks and chickens. They dropped the high density residential area to the ordinance. He also explained that the changes in Chapter 7 went through the Planning Commission. The changes to the ordinance received a favorable recommendation from the Planning Commission. He also mentioned that roosters are becoming a problem. The Planning Commission suggested including a restriction to roosters in the final ordinance.

Councilman Wardle said that Planning Commission made the recommendation for restricting roosters in the ordinance but it is not included in the written ordinance. He said that is a substantive discussion for another day.

Mr. Bayly said that is correct. If the Council would like to add a requirement that roosters be outlawed it can be done that way or they could have a discussion on another day.

Councilman Wardle stated that he has a concern for amending the ordinance at this meeting. There are citizens that have chickens that produce eggs and when raising chickens for FFA issues they need to have roosters. He does not favor an amendment without looking at the zoning. There are some areas that it would be o.k. to have roosters. He feels that they need to have a discussion on another day regarding the roosters.

Councilman McCall had a concern with 7-14-9 (g) that states *All such structures and buildings shall be located at least 50 feet from all dwellings located on adjoining lots or parcels, or If any adjoining lot or parcel does not have a dwelling located thereon, at*

*least 30 feet from the property lines of the adjacent lot or parcel.* His concern is if someone is next to a lot that has been vacated they shouldn't have to put their animals in the middle of their property. Council McCall said if someone lives in the country they know that their neighbors will probably have animals and he doesn't feel that the animals should have to be 30' from the property line.

Mr. Bayly stated that it would be a problem addressing that particular issue at this meeting because that was not considered by the Planning Commission. The rooster issue did come from the Planning Commission.

Councilman Wardle said that there are residents that raise chicks and roosters are needed. He said that outlawing roosters concerns him.

Mr. Bayly said that it is the Council's decision if they want to include the outlawing of roosters or not.

Chairman Pruden noted that there was one "Nay" vote in the Planning Commission minutes on this ordinance change. He asked Chairman Milne if the "Nay" vote was concerning roosters.

Chairman Milne, Chairman of the Planning Commission, addressed the Council. He said that the "Nay" vote was not over the rooster issue. The Commissioner that voted "Nay" concern was that the ordinance would take away the historic use of what residents have rather the clarification of what the intent has been anyway.

Councilman Wardle stated that Mr. Baker's clarification in the Planning Commission minutes really cleared up a lot of misinformation that had been in the public on pets. The ordinance clarified uses and it increased the number of pets a resident can have.

Mr. Baker recalls that the Commissioner that voted against this ordinance made it clear that it was not in what the staff was presenting but in what they were not presenting. He wanted to see a presentation about allowing more agricultural uses on properties that historically have had agricultural uses regardless of the zone. That was not the discussion that they were having during that meeting.

Councilman Hansen asked if the roosters would fall under the nuisance law. Residents would not be able to keep roosters if they were becoming a nuisance and others were complaining.

Mr. Bayly stated that if there were problems with roosters they would be prosecuted under a nuisance animal.

Chairman Pruden said that this ordinance can be voted upon as it stands and those items are side issues can be discussed later.

Mr. Bayly said that those items may be discussed another day.

Chairman Pruden stated that this ordinance is indicative of the problems that Tooele is facing. Tooele is no longer a small farming community, they are a growing City. It is sad as a historical part of the City, but for the betterment of the majority of the citizens these items need to be addressed.

Mr. Baker stated that roosters are in an allowed use and as they become overbearing they can protect that problem through nuisance enforcement. Nuisance enforcement consists of the police department preparing a police report and bringing it to the City Attorney's Office and then criminal charges can be filed. The idea of prohibiting rooster all together is to avoid the nuisance in the first place. There are more pressing matters for police resources than chasing down roosters.

Chairman Pruden stated that this is a public hearing if anyone would like to come forward and address this issue. No one came forward.

**Councilman Hansen moved to close the public hearing.** Councilman McCall seconded the motion. All members present voted "Aye". The public hearing closed at 7:45 p.m.

**Councilman Hansen moved to approve Ordinance 2008-11.** Councilman McCall seconded the motion. All members present voted "Aye".

Mr. Baker asked the Council for some direction on what to do with roosters.

Chairman Pruden said that the Police Department and the code enforcement officer should discuss the issue.

Councilman Wardle would like to see how many calls they get on roosters and if it is becoming a nuisance. He would like to see some data.

Mr. Baker said they have had two calls over the last month.

Councilman Wardle would like to see the calls tracked and then they could discuss roosters if they are becoming a problem.

**6. Resolution 2008-21 A Resolution of the Tooele City Council Accepting the Completed Public Improvement Associated with Overlake Subdivision Phase 1J.**

Presented by Paul Hansen

Mr. Hansen explained that this item and the next three items are related. He stated that under Tooele City Code when a developer builds a subdivision or completes other public improvements they are required to complete them to the satisfaction of City standards. At that time they are required to bring them to the City Council for their acceptance of

public improvements. This then allows the developer to be relieved of certain bonding responsibilities. The city holds 20% of the bond for one year to make sure that the improvements remain intact. Overlake Subdivision Phase 1J, which is the commercial development off of 1000 N, is now ready for the Council to accept the public improvements.

**Councilman Hansen moved to approve Resolution 2008-21.** Councilman Wardle seconded the motion. All members present voted “Aye”.

7. **Resolution 2008-46 A Resolution of the Tooele City Council Accepting the Completed Public Improvements Associated with Rancho Tooele Subdivision, Phases 6C, D, and E.**

Presented by Paul Hansen

Chairman Pruden asked where this subdivision is.

Mr. Hansen stated that it is on 900 S west of the elementary school, and west of Rancho Park.

Mr. Hansen stated that this is the same representation as the previous agenda item.

**Councilman Hansen moved to approve Resolution 2008-46.** Councilman Wardle seconded the motion. All members present voted “Aye”.

8. **Resolution 2008-47 A Resolution of the Tooele City Council Accepting the Completed Public Improvements Associated with Willow Terrace Estates Subdivision.**

Presented by Paul Hansen

Mr. Hansen stated that Willow Terrace Estates in another residential subdivision that is located just north of Utah Avenue and west of 200 W. It is the same representation as the previous items.

**Councilman Wardle moved to approve Resolution 2008-47.** Councilman Hansen seconded the motion. All members present voted “Aye”.

9. **Resolution 2008-48 A Resolution of the Tooele City Council Accepting the Completed Public Improvements Associated with Carr Fork Subdivision, Phase 11.**

Presented by Paul Hansen

Mr. Hansen stated that this is the final phase of Carr Fork Subdivision. Carr Fork Subdivision begins east of Droubay Road just south of 1000 N. Phase 11 is two lots at

the end of each of the east and west streets. This is the same representation as the previous items.

**Councilman Wardle moved to approve Resolution 2008-48.** Councilman Hansen seconded the motion. All members present voted “Aye”.

**10. PUBLIC HEARING & MOTION on Ordinance 2008-13 An Ordinance of the Tooele City Council Amending Tooele City Code §7-19-18 Regarding Streets.**

Presented by Paul Hansen

Mr. Hansen explained that the modifications that they are recommending to the Council and were approved by the Planning Commission clarify two things. First, it deletes a paragraph that allowed an exception to the completion of road ways for non-residential development based on employment, property or sales tax, water site and supply demand and other considerations. He does not feel that is fair or equitable. The completion of roadways should not be based on a businesses tax base or the number of employees they have it should be based on traffic demands and public safety access. This brings the ordinance back to more of an equitable ordinance.

Mr. Hansen further explained that the second thing this ordinance does is adds a provision back into the ordinance. In 7-19-18 2 (d) has a provision that allows the City Council, at their discretion, with input from staff to defer the requirement for a developer to complete the opposite side of the roadway on rights-of-way roads having a width greater than 66'. The right-of-way might be owned by a different developer, where it is not already part of an existing dedicated right-of-way. This would not be construed as a waiver of all the requirements to complete full roads. It is a “tool” in the “tool box” that the Council has to allow development to progress. There are instances that staff will not recommend to the Council that they waive the far side requirement. He used the Home Depot subdivision as an example; they made them build a full road. They bring semi-trucks to their business and lots of clients. There may some instances where staff recommends that it is reasonable and proportionate to not have to require the opposite side dedication. One of those is a developments is the Matthews Acres Subdivision. Matthews Acres abuts 1000 N which is an 84' right-of-way, and they do not or have ever owned the property on the other side.

Councilman Wardle asked when they defer the opposite side dedication do they have the developer bond to finish the public improvements later.

Mr. Hansen said not under this provision. The deferral is under the Council’s discretion and they could put whatever conditions they would like to place at that time.

Councilman Hansen asked when the other side of the road develops that Home Depot was required to build can they go to that owner and make them help pay for the road?

Mr. Hansen stated that each situation is different. It depends on the arrangement between the two property owners. Under Tooele City Code the developer that incurs the cost has the right to file an application for reimbursement.

Councilman McCall asked if the owner on the other side refuses to pay can the other owner take them to court.

Mr. Baker stated that it depends on if a waiver is given. If a waiver is given to complete the far side of the road then there are not costs to worry about. Sometimes the two private property owners can work it out which is the case with Home Depot. In other instances staff will not recommend a waiver to the Council and ask them to complete the full road. It depends on the unique facts and circumstances of each application.

Councilman Wardle stated that staff will make a recommendation to the Council. If staff doesn't make a recommendation in favor of the waiver the developer can still come before the Council and ask for a waiver.

Mr. Hansen stated that they can always ask. He continued to say that this ordinance also allows the City Council to waive the requirement of improvements on the near side of the street for those roads having a right-of-way of 106' or greater (i.e. SR-36, SR-112, west of 1100 W and 1000 N, between SR36 and SR112, Tooele Blvd, south of 200 South, and Industrial Loop Road.) The Council can defer further exceptions because of the extreme width of the roads.

Chairman Pruden stated that this is a public hearing if anyone would like to come forward and address this issue.

Chris Sorenson addressed the Council. He asked if there are criteria for a denial or is it strictly arbitrary to the City Council and Planning Commission. He also asked if this is only for new developments or do developers have to go back and complete roads.

Mr. Baker stated that Tooele City intends to never act in an arbitrary and capricious way. The general rule is that a developer builds full width roads. Under the criteria established there would be no arbitrary decisions but the ability to use their discretion. This would not apply to streets that have already been constructed only streets that need to be constructed.

Councilman Wardle stated that there is criteria built in under a, b, c, d, and e. The criteria would be width, and traffic counts. There is criteria built into the ordinance so it is not arbitrary.

Mr. Sorenson said he has not seen the ordinance with the criteria.

Councilman McCall asked if the public can access these ordinances.

Mr. Baker stated that this ordinance has been completed and available to the public for over a month. There was a public hearing at the Planning Commission meeting. This is the second public hearing.

**Councilman Hansen moved to close the public hearing.** Councilman Wardle seconded the motion. The public hearing closed at 8:02 p.m.

**Councilman Hansen moved to approve Ordinance 2008-13.** Councilman Wardle seconded the motion. All members present voted “Aye”.

**11. PUBLIC HEARING & MOTION on Final Plat Approval for UID 13 Subdivision. A three lot Subdivision located along Emerald Road.**

Presented by Paul Hansen

Mr. Hansen stated that this three lot subdivision is located on the eastern boundary of the UID. This development was first proposed to the Council on October 15, 2008 and was tabled because there was some questions on some easements and other access considerations. This action has gone to the Planning Commission and received a favorable recommendation, with the consideration that the easement access be maintained. After the Planning Commission meeting the City was contacted by the Army raising some additional access concerns. The Army needs to access the rail classification yard which is along the western boundary of Emerald Road. Staff recommends approval of this plat with the conditions outlined in the staff memorandum. With the additional condition that the access along Emerald Road not be fenced or gated until alternative easements are provided to satisfy the needs of UID subdivision number two, Tooele City interests for emergency access, and the Army for access to the rail yard.

Mr. Baker stated that those are the three that he is aware of. He also stated that if the developer brings forth alternate easements that doesn't mean that the property owners would be required to abandon current easements that they already have. It would be up to each easement holder to decide whether an alternate easement would be satisfactory.

Chairman Pruden stated that this is a public hearing if anyone would like to come forward and address this issue.

Dave Gillette from the Tooele City Fire Department addressed the Council. Mr. Gillette said there are two buildings at UID that are 250,000 sq ft and placing a gate along Emerald Road would take too long for emergency response to get to them in a life saving factor if the road was blocked. He wants to make sure that that road is never blocked.

Councilman McCall disclosed that he works for Carlisle Syntec/HunterPanels. Councilman McCall has a concern that there are a lot of vehicles that use Emerald Road. He talked to Mr. Sant and he stated that part of the road will be privately owned.

Councilman McCall's concern is if that private road is ever sold would it be able to be blocked off by the new owner.

Mayor Dunlavy stated that easements stay with the property.

Councilman McCall asked if the property is sold does the easement go away.

Mayor Dunlavy said "no", it stays with the property.

Councilman McCall asked if the new property owner could block off the road.

Mayor Dunlavy said only if Carlisle Syntec were to give up their easement.

Councilman Wardle asked if there was a plan to put a gate on the private portion of the road.

Mayor Dunlavy stated "no".

Councilman McCall stated that was his concern that they still be able to move back and forth on that road.

Mr. Gillette said at one time there was talk about putting a gate on the private road and that is why he is here he does not want to see that happen.

**Councilman Wardle moved to close the public hearing.** Councilman Hansen seconded the motion. All members present voted "Aye". The public hearing closed at 8:10 p.m.

**Councilman Hansen moved to approve the final plat for UID 13 subdivision. A three lot subdivision located along Emerald Road with the following conditions:**

- 1. A portion of Emerald Road will be dedicated to Tooele City as shown on the plat. The remainder of the road will remain open as a private road with and easement for UID sub no 2 (Carlisle Syntec/Hunter Panels) and with an access easement for lots 1302 and 1301.**
- 2. An easement will be recorded to allow for emergency access along the private portion of Emerald Road for Tooele City and the Army Depot.**
- 3. An access easement will be granted to the Army to access the rail classification yard.**
- 4. A maintenance agreement will be in place between Tooele City and UID for the detention pond.**

**Councilman Wardle amended the staff conditions to include that no gate be placed upon private portions of Emerald Road so it may remain open for access for emergency vehicles and businesses located along Emerald Road.** Councilman McCall seconded the amendment.

Councilman Wardle seconded the motion. All members present voted “Aye”.

**12. PUBLIC HEARING & MOTION on Final Plat Approval for West Point Meadows Condominiums Amended by Mark Higley.**

Presented by Rachelle Custer

Ms. Custer stated that West Point Meadows Condominiums was required to bring in a signed mylar prior to tonight’s meeting. That has not been turned in and she asked that the Council table this until the mylar is received.

**Councilman Wardle moved to table final plat approve for West Point Meadows Condominiums amended by Mark Higley.** Councilman Hansen seconded the motion. All members present voted “Aye”.

Chairman Pruden moved the next agenda item up on the agenda and it was discussed at this point.

**13. PUBLIC HEARING & MOTION on Ordinance 2008-04 An Ordinance of the Tooele City Council Enacting Tooele City Code Section 7-19-18.1 Regarding the Installation and Maintenance of Certain Public Improvement on Double-Frontage Lots.**

Presented by Rachelle Custer

Ms. Custer indicated that she feels very comfortable with this ordinance. She stated that for many years the Planning Commission and City Council has struggled with how to maintain and beautify double frontage lots. Staff has in the past and will continue to prevent double frontage lots in developments but there will be some limited access collector roads where there will be double frontage lots. This ordinance puts in place some design guidelines for double frontage lots. The ordinance will require stamped colored concrete, trees not more than 35’ apart, the sidewalk be maintained and plowed, a 6’ wall be put into place, and an HOA established to maintain the double frontage lots. Ms. Custer stated that this ordinance will help beautify the double frontage lots, but this will not take care of the existing double frontage lots.

Chairman Pruden asked if there is a mechanism involved in this ordinance when someone buys a home with a double frontage lot that there is some way that the City is assured that the person buying the home is aware of the fact that they are taking on the responsibility of the double frontage lot.

Ms. Custer said that the HOA will have CC&R’s and HOA documents that will be recorded with the subdivision, which will be disclosed by the title company.

Chairman Pruden wanted to thank the members of the Committee that have worked on this ordinance. They have been working on this ordinance for two years. He thanked Councilman Wardle, Councilman McCall, Chairman Milne, Cary Campbell, Rachelle Custer, Paul Hansen, and Roger Baker.

Chairman Pruden stated that this is a public hearing if anyone would like to come forward and address this issue.

Wade Matthews addressed the Commission. Mr. Matthews stated that he is attempting to finalize a subdivision with double frontage lots. He has a subdivision with 31 lots and there will be three double frontage lots, he asked if every home be required to be a part of the HOA or would it be just for those three homes.

Ms. Custer stated that the HOA applies to the homes in the whole subdivision not just the homes with double frontage lots. She is not sure if that is specified in the ordinance.

Mr. Baker said that they have not examined the possibility of an HOA that only includes part of the lots. They need to address that issue.

Mr. Matthews said they had no plans to form an HOA other than this requirement. It seems unnecessary to include the entire subdivision for three homes.

Chairman Pruden said that in the interim while they are building their subdivision Mr. Matthews will need to form an HOA according to this ordinance. This issue will be worked through before he starts building homes.

Mr. Matthews asked if they could be grandfathered and not be required to do the double frontage lot requirement.

Councilman Wardle stated that he was in a pre-development meeting with Mr. Matthews and his brothers and they knew that this ordinance was coming almost two years ago. He said that they have let every builder know in the last two years that this ordinance was coming.

Mr. Matthews said that it never hurts to ask.

Councilman Wardle said that this ordinance is not just about beautification it is about the safety of kids having to walk in the roads. This is what happens when government works well; this ordinance had a lot of input. He appreciates the committee and the labor they put in not only in writing the ordinance but dealing with the concerns that have come from various groups within the community. This is the best ordinance that could come forward to deal with this issue.

Councilman Hansen said that this issue is something that has needed to be dealt with for a long time. Double frontage lots in Tooele are a problem; kids have to walk in the street because the sidewalk is not plowed. This ordinance will help with that in the future.

Mr. Matthews asked when he could expect a resolution to his question. He also asked how the HOA's are enforced.

Chairman Pruden said that before the houses are built they should have an answer. He asked Mr. Matthews if he understands why the three lots in his subdivision must comply with the ordinance.

Mr. Matthews said that if nobody takes care of the double frontage lots it becomes a problem. When there are no gates it makes it hard for home owners to maintain the double frontage lots. He asked why no gates are included in the ordinance.

Ms. Custer stated that the HOA will be required to do the maintenance not the homeowner.

Chairman Pruden said that usually an HOA will hire an outside company to take care of the double frontage lots.

Councilman Wardle stated that in the research they did with other municipalities that is what most of the developers did is form the HOA and contracted with a company for snow removal. The cost is very minimal for snow removal. The cost usually comes with the wall but it is spread out over all the homes. He recommended that Mr. Matthews talk to some developers in West Jordan, West Valley, Sandy, or South Jordan. Those municipalities are requiring this as well.

Mr. Matthews asked if any developers were doing this voluntarily within the City before this ordinance is passed.

Ms. Custer stated that the Loma Vista subdivision did a perimeter landscaping. They do not have a block wall. She is not sure if they have an HOA or not.

Councilman Wardle suggested that Mr. Matthews talk the Loma Vista developers. He said that this ordinance brings Tooele up to planning standards that have gone on throughout the state.

Chairman Milne thanked the other members of the Committee he stated that they did far more work than he did. He wanted Commissioner Searle to receive some recognition as well; he has been a big advocate for this from the beginning. There is a development across the street from Head Start by Northlake Elementary; the residents do not shovel their sidewalks right now because there residents are not living there yet. The Planning Commission required gates to be placed on those lots so people could take care of the double frontage lots. Anecdotally speaking he doesn't know how many people would trudge through their back yard of snow to shovel their double frontage lot. Chairman Milne stated that it is an unfortunate circumstance that citizens don't take care of the double frontage lots because it is the right thing to do. He does not mean to sound preachy. He thanked the staff that has worked on this for so long. He thanked the

administration as well. He feels that it is unfortunate that this has to be enforced as an ordinance. It could have been solved if the residents had some pride to take care of the double frontage lots.

Councilman Hansen stated last winter there was a gentleman that plowed his double frontage lot and the snow plow came down the street and covered it back up. He is not sure what the right answer is.

Mr. Baker said that he might be able to answer Mr. Matthews's first question. Mr. Baker explained that the way the ordinance is written is says that CC&R's shall be required to be recorded against all lots within the subdivision. This allows the burden of the maintenance costs to be shared by a larger number of people. The double frontage lots reflect upon the entire subdivision. The intent of the ordinance requires the entire subdivision be encumbered.

**Councilman Hansen moved to close the public hearing.** Councilman Wardle seconded the motion. All members present voted "Aye". The public hearing closed at 8:30 p.m.

**Councilman Wardle moved to approve Ordinance 2008-04.** Councilman Hansen seconded the motion. All members present voted "Aye".

**14. PUBLIC HEARING & MOTION on Final Plat Approval for Mathew Acres Phase 1 an 8.29 Acre 31 Lot Residential Subdivision to be Located at Approximately 200 E 1000 N.**

Presented by Rachelle Custer

Ms. Custer explained that the developer is requesting final plat approval for phase 1 of their development. This will consist of 31 residential lots. This development is in an R1-7 zone. The lots range from 7,000 sq ft to 9,400 sq ft. Offsite sewer easements have been acquired. Staff recommends approval of the final plat of Mathews Acres phase 1. Planning commission made a favorable recommendation on October 8, 2008. The double frontage lot ordinance will apply to this subdivision.

Chairman Pruden asked if there are supposed to be two entrances.

Ms. Custer said that they do have two entrances. There is an easement through the commercial lot.

Chairman Pruden asked if 200 E will open into that lot.

Mr. Matthews said that there will be a paved road.

Chairman Pruden stated that this is a public hearing if anyone would like to come forward and address this issue.

Mr. Hansen stated that this is a development that would be eligible for the deferral of not completing the other side of the road on 1000 N. It would be his recommendation that this might be one that the Council might wish to consider for a deferral for their obligation to complete the north side of 1000 N. They would need to completely finish their portion of the south side of 1000 N.

Chairman Pruden asked if they would bundle the length of the commercial lot.

Ms. Custer stated that is a different phase.

Chairman Pruden said that there is a street coming through there.

Councilman Wardle stated that they have to apply for that.

Mr. Hansen said that the ordinance says that they have to apply within 15 days of the City Council. The City Council just passed the ordinance tonight and the subdivision is before the Council they can't comply with the 15 days.

Mr. Baker said that the ordinance gives the Council discretion to utilize the ordinance since it has been passed and it is effective upon passage. It is impossible for the developer to apply within 15 days.

Mr. Matthews addressed the Council. He would like the Council to approve the subdivision. It is a great area of town and there is good development going on. He would like a deferral on the ordinance that was just passed.

**Councilman Wardle moved to close the public hearing.** Councilman Hansen seconded the motion. All members present voted "Aye". The public hearing closed at 8:36 p.m.

Councilman Wardle moved to approve final plat for Matthews Acres phase 1 a 8.29 acre 31 lot residential subdivision to be located at approximately 200 E 1000 N with a deferral for the developer to not complete the public improvements on the north side of 1000 N per the ordinance passed earlier.

Mr. Baker asked that the Council to clarify the word deferral. The word deferral implies that this developer will be required at some point in the future to finish those improvements. The Council has been asked to waive the requirements for this developer. When the developer develops on the north side he will have to finish the public improvements.

Councilman Wardle re stated his motion to include waiver.

**Councilman Wardle moved to approve final plat for Matthews Acres phase 1 a 8.29 acre 31 lot residential subdivision to be located at approximately 200 E 1000 N with the waiver for the developer to not complete the public improvements on the north**

side of 1000 N per the ordinance passed earlier. Councilman Hansen seconded the motion. All members present voted “Aye”.

**15. PUBLIC HEARING & MOTION on Final Plat Approval for Beacham Subdivision a two lot .85 Acre Subdivision located at 400 S 100 W by Beacham Masonry.**

Presented by Rachelle Custer

Ms. Custer explained that this plat was previously approved on May 14, 2008. The Plat was not fully executed within 90 days and is now back for approval. Planning Commission made a favorable recommendation on October 22, 2008. This plat is exactly the same as the plat that was presented on May 14, 2008. There were no conditions placed on the plat when it was approved previously.

Chairman Pruden would like to encourage this developer to pay their business license fee.

Councilman Wardle asked if they are operating with out one.

Chairman Pruden said “yes”.

Chairman Pruden stated that this is a public hearing if anyone would like to come forward and address this issue. No one came forward.

Councilman Wardle asked Mr. Baker if it would violate state statute if they did not pass the subdivision without the business license.

Mr. Baker said that it would. The subdivision has to be approved based on its own merits.

**Councilman Hansen moved to close the public hearing.** Councilman Wardle seconded the motion. All members present voted “Aye”. The public hearing closed at 8:40 p.m.

**Councilman Wardle moved to approve final plat for Beacham subdivision a two lot .85 acre subdivision to be located at 400 South 100 West.** Councilman Hansen seconded the motion. All members present voted “Aye”.

**16. PUBLIC HEARING & MOTION on Ordinance 2008-09 An Ordinance of the Tooele City Council Amending the Tooele City Code Chapter 7-16 Regarding Auto Impound Yards.**

Presented by Rachelle Custer

Ms. Custer explained that in 1999 there was an ordinance that deleted from the City Code auto impound yards, military surplus yards, and vehicle storage yards as being allowed in the Industrial zone. There was a temporary ordinance placed in May of 2000 that talked

about some landscaping requirement in these yards. The temporary ordinance was for six months. Staff is back before the Council to make those changes permanent. This ordinance will define auto impound yards, military surplus yards and vehicle storage yards as being used for temporary storage of vehicles and military equipment. This will make the landscape requirement for auto impound yards, military surplus yards and vehicle storage yards a permanent ordinance. It will allow impound yards, military surplus yards and vehicle storage yards in Industrial zones only by conditional use. It will disallow them in any other zone.

Chairman Pruden stated that this is a public hearing if anyone would like to come forward and address this issue. No one came forward.

**Councilman Hansen moved to close the public hearing.** Councilman Wardle seconded the motion. All members present voted “Aye”. The public hearing closed at 8:43 p.m.

**Councilman Wardle moved to approve Ordinance 2008-09.** Councilman Hansen seconded the motion. All members present voted “Aye”.

**17. Minutes: October 15, 2008**

Chairman Pruden noted that his name was spelled wrong on page 1.

**Councilman Hansen moved to approve the minutes with the one change as noted above.** Councilman Wardle seconded the motion. All members present voted “Aye”.

**18. Invoices**

Presented by Sharon Dawson

Ms. Dawson presented the following invoices:

- Holme Roberts & Owen LLP for outside legal services for Tooele Associates litigation in the amount of \$122,233.28.
- Nickerson Company Inc for well #5 repair in the amount of \$51,650.00.
- Tooele Chamber of Commerce for annual funding payment in the amount of \$8,000.00
- Dyer Waldbillig for professional services rendered through September 2008 in the amount of \$11,665.50.
- Turner Concrete to install concrete parking lot at Elton Park in the amount of \$32,471.20.
- Global Marketing for one mack truck for the waste water treatment plant in the amount of \$14,800.00.

**Councilman Hansen moved to approve the invoices as stated by Ms. Dawson.** Councilman Wardle seconded the motion. All members present voted “Aye”.

**19. Adjourn**

**Councilman Hansen moved to adjourn the meeting.** Councilman Wardle seconded the motion. All members present voted “Aye”. The meeting adjourned at 8:46 p.m.

Approved this 19<sup>th</sup> day of November 2008

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Chairman Pruden